

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA

Plaintiff,

v.

MICHAEL J. SHANAHAN

Defendant.

Case No. CR05-5158RBL

ORDER DENYING MOTION TO
SEVER

This matter is before the court on Defendant Michael Shanahan's Motion to sever [Dkt. #121]. Defendant argues that the charges against him should be severed and tried separately from the charges against his alleged co-conspirator, David Carroll Stephenson.

The common count against the defendants, Count I – conspiracy, is properly joined under Fed. R. Crim. P. 8. Defendant argues that the defendant's trial should be severed under Fed. R. Crim. P. 14, because the defendant's defenses are "mutually antagonistic" and/or "irreconcilable," resulting in prejudice to the defendants. However, Shanahan has not shown that the defenses are mutually antagonistic or irreconcilable. The acquittal of one defendant would not necessarily result in the conviction of the other. Furthermore, the core of Shanahan's defense has not been shown to be irreconcilable with the core of Defendant Stephenson's defense. *See United States v. Angwin*, 271 F.3d 786, 795 (9th Cir. 2001); *United States v. Throckmorton*, 87 F.3d 1069 (9th Cir. 1996).

1 Defendant Shanahan's Motion to Sever [Dkt. #121] is therefore DENIED.

2
3 DATED this 1st day of February, 2006

4
5
6 
7 RONALD B. LEIGHTON
8 UNITED STATES DISTRICT JUDGE
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28